Book Review

Harding, R W (ed), *Repeat Juvenile Offenders: The Failure of Selective Incapacitation in Western Australia*, Research Report No 10, Crime Research Centre, University of Western Australia, Nedlands, 1993, 155pp, $20.00, ISBN 0 86422 298X.

The *Crime (Serious and Repeat Offenders) Sentencing Act* 1992 ("the *Sentencing Act*") has drawn sustained criticism from a variety of quarters since the Western Australian Parliament enacted the legislation some two years ago. In basic terms the legislation is aimed primarily at youth who steal cars and drive dangerously. The Act provides for mandatory minimum sentences and discretionary release.

The Federal Human Rights Commissioner argued that the legislation violated sections of the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.[1] The Government's own Parliamentary Review Committee had stated that the legislation was "irredeemably flawed".[2]

The research report *Repeat Juvenile Offenders: The Failure of Selective Incapacitation in Western Australia* edited by Richard Harding brings together a number of criminologists and lawyers who have evaluated various aspects of the *Sentencing Act*. Neil Morgan analyses the court's responses to dangerous or reckless or criminally negligent driving through a review of relevant case law. He argues that the courts had been explicitly increasing penalties for these offences prior to the introduction of the *Sentencing Act*. In the following chapter, Morgan analyses the specific provisions of the *Sentencing Act* and draws attention to the problematic nature of a "conviction appearance" which is used to define the repeat offender. The category itself derives more from administrative and police procedures than it does from any levels of re-offending. Similarly there are problems with the categorisation of violent offences which includes some relatively trivial offences and excludes potentially serious ones.

In chapter 4 of the report Broadhurst and Loh examine what grounds there are for assessing whether the Act could meet its aim of selective incapacitation of hard-core offenders and general deterrence. The inconsistent logic used in defining the "hard-core" meant that the likely number of offenders to be ensnared by the new legislation was reckoned to be between 38 and 400. In relation to general deterrence, Broadhurst and Loh show that comparisons between motor vehicle theft and other offences reveal similar trends. The trends in reported offences were not the result of the deterrent value of the legislation. In chapter 5 of the report Broadhurst and Ferrante analyse the broader trends in relation to juvenile offences and court dispositions between 1990–1992.

Other chapters in the report by Morgan, Wilkie and Harding consider further aspects of the legislation. Morgan analyses the procedures for the release of offenders committed

1 *Civil Liberty*, No 148, March 1992.

2 Harding, R W (ed), *Repeat Juvenile Offenders: The Failure of Selective Incapacitation in Western Australia*, cited at 75.

under the legislation, while Wilkie considers how certain provisions of the Act conflict with fundamental principles of juvenile justice established in international conventions. In the final chapter Harding points out the lost opportunity costs of an agenda centred solely around increased punishment. He spells out the causes and preconditions of juvenile crime and the alternative approaches which are available.

As Harding succinctly states;

> This research report demonstrates that the Western Australian laws of 1992, particularly the *Crime (Serious and Repeat Offenders) Sentencing Act*, failed according to every criminological criterion by which they can properly be evaluated.[3]

Strong words indeed. The strength of the report is its closely argued demonstration of the failings of the legislation in terms of its legal drafting and its penological theory. The legislation itself stands as a symbol of the folly of formulating public policy around the requirements of talk-back radio announcers and the tabloid press.

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CORRECTION

On page 229 of Volume 5 Number 2, in a review by Sam Garkawe of A Karmen's book *Crime Victims — An Introduction to Victimology*, an error occurred in the second line of paragraph two. The first sentence in this paragraph should in fact read:

> Karmen sets the scope of his inquiry in the First Chapter by establishing his basic definitions of "victimology", "victim" and "crime victim". His focus is almost entirely upon victims of traditional "street crime"; this major limitation would be viewed by those who have a "radical-critical" victimological perspective (Karmen uses this terminology himself, see page 11) as an inherent bias in the book.

3 Id at 13.